IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.3176 of 2000

Between:

M/s. Sri Venkatalakshmi Enterprieses, Rep. by its Licencee;

Chekuri Radha Krishna,I.O.C. , Retial Out-let,

K. Gangavaram Village and Mandal, East Godavari District,

..... PETITIONER

AND

The District Collector, (Civil Supplies Wing),
East Godavari District, at Kakinada.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate Writ, declaring the proceedings of the respondent herein bearing No. Ref.V.12/CS/170/2000 dated 26-2-2000 as illegal, arbitrary and without jurisdiction and consequently direct the respondent to drop all further proceedings against the petitioner in this regard and to pass such other or further order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.N.SIVA REDDY

Counsel for the Respondent: GP FOR CIVIL SUPPLIES

The Court made the following:

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ORDER:

The petitioner is the dealer of Indian Oil Corporation. He also obtained 'B' Form licence under A.P.Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 (hereafter called 'the Control Order'). On 26.2.2000, the Inspector of Police (Vigilence Cell), Civil Supplies Department submitted a report to the District Collector, the respondent herein, informing certain contraventions, namely, that the petitioner is not maintaining correct accounts and that he did not keep the 'B' Form licence in the business premises. Based on the said report, the respondent by impugned proceedings dated 26.2.2000 suspended the licence of the petitioner purporting to exercise of power under Clause 28(2) of the Control Order. In **Narasimha Oil Supplies, IOC v. Joint Collector, West Godavari**, I have dealt with this aspect of the matter. It was observed therein that:

> Sub-clause (1) of Clause 28 empowers the authority to cancel or suspend the licence or registration certificate of a dealer of petroleum products, if he contravenes the provisions of the Control Order. No order of cancellation/suspension can however be passed unless licensee or the holder of registration certificate has been given a reasonable opportunity of representing his case in writing and also giving a personal hearing to the licensee or dealer. Clause 28(2) empowers the authority to pass an order of interim suspension if (i) there is action pending under sub-clause (1) and (ii) if for reasons to be recorded in writing the authority decides that licence or certificate of registration is required to be cancelled/suspended.

Yet again it was observed:

> In a given case issue of a show cause notice as per proviso to Clause 28(1) could be sufficient to show that action was initiated and pending under Clause 28(1). The same is not done and not even a show cause notice was issued. Straightaway, the impugned order was passed ignoring the mandatory requirement of Clause 28(2). Further, the authority is required to record reasons in writing. A reading of the impugned orders would show that no reasons are recorded by the Joint Collector except saying that in the circumstances reported by the Deputy Superintendent of Police/Inspector of Police ...., the impugned orders of suspension is being passed.

Applying the principles as above, it becomes clear that the impugned order is

wholly unsustainable and accordingly, the writ petition is allowed.

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(V.V.S.RAO,J)

07.06.2005

YS

Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the acting Chief Justice on this Tuesday, the Seventh day of June, 2005.

To

1. The District Collector, (Civil Supplies Wing),
East Godavari District, at Kakinada.

2. Two CCs to the Government Pleader for Civil Supplies,

High Court Buildings, Hyderabad.

3. Two C.D. Copies.